

REMARKS/ARGUMENTS

This Amendment is being filed in response to the Final Office Action mailed on February 26, 2009, which has been reviewed and carefully considered. Reconsideration and allowance of the application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 1 and 4-18 are pending. Claim 18 was inadvertently not provided in the Amendment submitted on December 12, 2008 due to a clerical error. This error is corrected herein with the re-submittal of claim 18. Accordingly, consideration of each of claims 1 and 4-18 is respectfully requested.

In the Final Office Action, claims 1, 4 and 6-9 are rejected under 35 U.S.C. §102(b) over U.S. Patent No. 6,370,091 to Kuroda ("Kuroda"). Moreover, claims 5, 10 and 11 are rejected under 35 U.S.C. §103(a) over Kuroda. Further, claims 12-18 are rejected under 35 U.S.C. §103(a) as being unpatentable over Kuroda in view of EP 1204106A2 to Tateishi ("Tateishi"). The rejection of claims 1 and 4-18 is respectfully traversed. It is respectfully submitted that claims 1 and 4-18 are patentable Kuroda alone and in view of Tateishi for at least the following reasons.

It is undisputed that Kuroda fails to teach, disclose or suggest "shifting middle zone areas of at least one of the information layers towards an inner radius of the disc" (see, Final Office Action, page 4), however, the Final Office Action takes a position that "[i]t would have been obvious to one having ordinary skill in the art at the time the invention was made to only record, for example, four data blocks instead of six data blocks to thereby shifting the middle zone area, since it has been held that mere changing the size of a content involves only routine skill in the art."

This position of the Final Office Action is respectfully traversed. It is respectfully submitted that the claims as presented do not have to do with a change in size of content but in fact, the claims recite a recording strategy that is admitted by the Final Office Action to be lacking from Kuroda.

Further, as previously pointed out, Kuroda discloses methods for recording data to a dual layer DVD-ROM and, in particular, DVD-ROM recording formats that prevent illegal copying of recorded information from a DVD-ROM to a DVD-RAM or DVD-R recordable medium. (See, e.g., Col. 1, lines 25-29 and Col. 2, lines 17-24.)

Further, it is further respectfully submitted that Kuroda does not disclose or suggest a recording strategy for a user recordable multi-layer record carrier as recited in the pending claims.

While Tateishi discloses a writable optical recording medium, Tateishi also does not disclose or suggest shifting the data area and accordingly, does nothing to provide that which is admitted missing from Kuroda.

Accordingly, it is respectfully submitted that the method of claim 1 is not anticipated or made obvious by the teachings of Kuroda alone and in view of Tateishi. For example, Kuroda alone and in view of Tateishi does not disclose or suggest, a method that amongst other patentable elements, comprises (illustrative emphasis provided) "recording the data content on the user recordable multi-layer record carrier such that the data content is substantially evenly distributed between each of the plurality of information layers and recorded in compliance with a ROM (read only memory) record carrier standard, wherein portions of the data content are recorded in data areas of the first and second information layers such that the data areas are superjacent; and shifting middle zone areas of at least the first and second information layers towards

an inner radius of the disc such that inner radius data areas of
the first and second information layers are filled with a portion
of the recorded data content if the user recordable multi-layer
record carrier is recorded with less than a full capacity of the
user recordable multi-layer record carrier" as recited in claim 1,
and as similarly recited by each of claims 4 and 12.

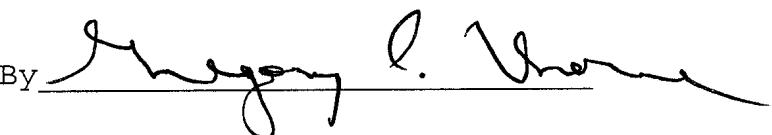
Accordingly, in view of the above, it is respectfully requested that independent claims 1, 4 and 12 be allowed. In addition, it is respectfully submitted that dependent claims 5-11 and 13-18 should also be allowed at least based on their dependence from claims 1 and 12, as well as individually patentable elements recited in such dependent claims. Accordingly, separate consideration of each of the dependent claims is respectfully requested.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position,

should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

Applicants have made a diligent and sincere effort to place this application in condition for immediate allowance and notice to this effect is earnestly solicited.

Respectfully submitted,

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